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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 * * * * *

10 GERALD HESTER, on behalf of himself and
11 all others similarly situated,

CASE NO.: 2:09-CV-00117-RLH-RJJ

12 Plaintiff,

**DEFENDANT'S OPPOSITION TO
PLAINTIFF'S SUPPLEMENTAL
AUTHORITY**

13 vs.

14 VISION AIRLINES, INC.,

15 Defendant.

17 **DEFENDANT'S OPPOSITION TO PLAINTIFF'S SUPPLEMENTAL AUTHORITY**

18 Defendant, VISION AIRLINES, INC., by and through its attorney of record, Harold P.
19 Gewerter, Esq., of the law firm of Harold P. Gewerter, Esq., Ltd., respectfully submits the
20 following Defendant's Opposition to Plaintiff's Supplemental Authority.

21 In the waning hours before trial, Plaintiff has withdrawn its jury demand. Defendant has
22 been preparing its case for months based upon making arguments before the jury. If a party has
23 filed a timely jury demand, other parties may rely on that demand "for the issues it covers, and
24 need not file their own demands." *California Scents v. Surco Products, Inc.*, 406 F.3d 1102 (9th
25 Cir. 2005). A jury demand may be withdrawn only by written stipulation by all parties. FRCP
26 39(a); *Fuller v. City of Oakland, Calif.*, 47 F.3d 1522 (9th Cir. 1995).

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If this trial had proceeded during the normal course and had the jury found liability, the jury then would have made a determination on damages. Since the issue of damages remains in this case, there is no reason to remove this case from the jury's capable hands.

The Plaintiff misstates the status of this case by saying the Court has entered a Default Judgment—it has not, but just struck the Answer and the Clerk has entered a Default on the issue of liability only.

DATED this 5th day of November, 2010.

HAROLD P. GEWERTER, ESQ., LTD.

/s/ Harold P. Gewerter, Esq.

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